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OFFICE OF PETITIONS

In re Application of :
Virvo :
Application No. 10/749,070 : DECISION ON PETITION
Filed: December 30, 2003 :
Attorney Docket No. BAD017USU :
For: PRESENTATION DISPLAY :

This is a decision on the petition captioned, "PETITION TO REVIVE ABANDONED APPLICATION FOR PATENT," filed January 22, 2007 (certificate of mailing date January 18, 2007). The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned due to applicant's alleged failure to timely reply to the non-final Office action mailed May 23, 2006, which set an extendable three month period for reply. The Office contended that this application became abandoned on August 23, 2006. A Notice of Abandonment was mailed on November 29, 2006.

Petitioner asserts that a request for a three month extension of time with required fee and an amendment were timely mailed on certificate of mailing date November 22, 2006 and actually received in the Office on November 30, 2006.

The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the \$510.00 check for the three month extension of time was negotiated on November 30, 2006.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly

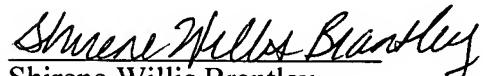
addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The transmittal letter bears a proper certificate of mailing, dated November 22, 2006, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the attorney signing the certificate, James G. Coplit, had reasonable basis to expect that the correspondence would be mailed on November 22, 2006. Attorney Coplit has attested to the fact that the correspondence was in fact mailed on that date.

The amendment and three month extension of time fee were received in the Office on November 30, 2006. The certificate of mailing date on the transmittal letter is November 22, 2006. Therefore, the reply was timely filed. The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the November 29, 2006 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3611 for consideration of the amendment filed on November 30, 2006 (certificate of mailing date November 22, 2006).

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.


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